IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 1014 OF 2005
IN
SUIT NO. 992 OF 2005

Raymond Ltd.] .. Plaintiff

Versus

M/s. Filex.] .. Defendant

Mr. Salil M. Shah with Amit Vyas i/b Rajani Associates for the plaintiffs.

Mr. Kunal Damle i/b Udwadia Udeshi for the defendant.

CORAM: ANOOP V. MOHTA, J.

DATED: 16TH MARCH, 2006

P.C. :

. Parties have no objection for the hearing of this matter by this Bench.

2. The basic suit is for infringement of copyright and passing off action. By an order dated 20th April, 2005, ad-interim relief in terms of prayer clause (a) in respect of Exhibit-F annexed to the Plaint has been in operation and remained unchallenged. On the contrary, in reply dated 7th June, 2005, the defendant has made following statement and given undertaking

accordingly in paragraph 17 as under:

> "It is respectfully submitted that in view of the Defendant's willingness to undertake before this Hon'ble Court that it will not deal in the impugned label or a label that is identical and/or deceptively similar to that of the Plaintiff henceforth nothing survives in the instant Notice of Motion and the Suit and the same are liable to be dismissed as infructuous."

2. Considering the averments made in the Plaint and the Affidavit in support of the Notice of Motion, I am of the view that a case is made out for confirmation of the ad-interim relief in terms of prayer clause (a).

> "(a) that pending the hearing and final disposal of the suit, the Defendant be restrained by an order and injunction of the Hon'ble Court from in any manner using/applying/affixing the impugned label Ex.F hereto or any other label/design identical with or deceptively similar to the label/design of Plaintiff on any cartons/boxes/containers bearing the Defendant's products so as to pass off their products as and for those of the Plaintiffs' products;"

3. Notice of Motion is accordingly disposed of.

4. Issuance of certified copy expedited.

Sd/-
[ANOOP V. MOHTA, J.]